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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/566,484

01/30/2006

Masashi Osanai

06062/LH

5151

1933 7590 04/23/2009

FRISHAUF, HOLTZ, GOODMAN & CHICK, PC
220 Fifth Avenue
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EXAMINER

UNDERWOOD, DONALD W

ART UNIT

PAPER NUMBER

3652

MAIL DATE

DELIVERY MODE

04/23/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/566,484	OSANAI ET AL.	
	Examiner	Art Unit	
	Donald Underwood	3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11,13,14,17,19,21,23,25,27 and 29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11,13,14,17,19,21,23,25,27 and 29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>111506&012109</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Receipt of the IDS filed 01/21/09 is acknowledged. Reference 43-1693 was lined through since it appears on the IDS filed on 10/13/08. Note the date for this reference on the IDS filed 01/21/09 differs from the date on the IDS filed 10/13/08.

Figures 35-42 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Note applicants' paragraphs 0028 and 0077 and their descriptions of the figures of these figures indicate these figures are prior art.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 11, 13, 14, 17, 19, 21, 23, 25, 27 and 29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 11, the when clauses bridging lines 10 and 11 and 16 and 17 render the claim indefinite and/or inaccurate since the condition preceding each when

Art Unit: 3652

clause is always present and not only present when the fork is horizontal at a ground position as implied. These when clauses should be deleted.

Regarding claims 13 and 14, these claims have the same deficiency as claim 11.

Regarding claim 17, the when clause bridging lines 10 and 11 should be deleted. See the remarks regarding claim 11 above. Also it appears lines 32-38 are inaccurate. The specification indicates that the displacement angle, i. e., attachment angle, decreases as the tool is lifted but is not eliminated nor does the sum of these angles at the midpoint and top sum to zero. See the specification, paragraphs 0034 and 0036. It appears the incline angle and the angle between L2 and L3 are both critical but are not claimed. See applicants' figure 7 and paragraphs 0050-0052. Also the claim does not clearly identify the attachment angle, i. e., correlate them with the line segments.

Regarding claims 19 and 21, they have the same deficiency as lines 32-38 of claim 17, discussed above.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11, 13, 19, 21, 23, 25, 27 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese reference 63-22499 in view of newly cited Sutton or Christensen.

It would have been obvious to substitute a bell crank with a forward bend for the bell crank in the Japanese reference in view of the teaching in Sutton or Christensen. Note the forward bend in the upper end of Sutton's bell crank which receives pivot 66.

Regarding claims 23, 25, 27 and 29, the forward bend in Sutton's and Christensen's bell crank is slight and appears to be in the 10 degree range. Moreover, the exact bend would have been an obvious matter of design and/or choice well within the skill of an artisan dependent upon the desired movement path.

Claims 14 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese reference 63-22499 in view of newly cited Sutton or Christensen as applied to claim 11 above, and further in view of Arck.

It would have been obvious to substitute a bucket for the fork in the Japanese reference in view of the teaching in Arck (figures 1 and 2).

Applicants' remarks have been carefully considered but are not deemed persuasive in view of the new grounds of rejections.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

Art Unit: 3652

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donald Underwood whose telephone number is 571-272-6933. The examiner can normally be reached on Mon-Thursday 7:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached on 571-272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Donald Underwood/
Primary Examiner, Art Unit 3652

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Application/Control Number: 10/566,484
Art Unit: 3652

Page 6